

Court No. - 47

Case :- WRIT - C No. - 30264 of 2023

Petitioner :- Raj Kumari

Respondent :- The State Of U.P. And 3 Others

Counsel for Petitioner :- Vishal Khandelwal

Counsel for Respondent :- C.S.C.,Avinash Chandra Srivastava

Hon'ble Manish Kumar Nigam,J.

1. Heard learned counsel for the parties and perused the record.
2. This writ petition has been filed challenging the order dated 18.01.2016 passed by respondent no. 3 Sub Divisional Officer, Ghior, Mainpuri in Case No. T201601490523 in proceedings under Section 33/39 of the U.P. Land Revenue Act and the revisional order dated 23.05.2023 passed by respondent no. 2 dismissing the revision filed by the petitioner.
3. Contention of the learned counsel for the petitioner is that agricultural lease was granted to one Bharat son of Atar Singh in the year 1974 after complying the provisions contained in Uttar Pradesh Zamindari Abolition and Land Reforms Act regarding the grant of lease and his name was also duly recorded in the revenue records. Subsequently, by operation of law Bharat Singh became bhumidhar with transferable rights. Bharat Singh executed a registered sale deed dated 16.11.2011 in favour of the petitioner and the petitioner came in possession after execution of the sale deed and her name was also recorded in the revenue records. Subsequently on the basis of the ex-parte report dated 21.10.2015 submitted by Lekhpal and Revenue Inspector on 06.11.2015 the entries in the name of petitioner was directed to be deleted by means of order dated 18.01.2016 by respondent no. 3. It has been further contended by the learned counsel for the petitioner that before passing the order dated 18.01.2016 neither any notice was served upon the petitioner nor the petitioner was given any opportunity of hearing. It has also been contended by learned counsel for the petitioner that a finding has been recorded by the respondent no. 3 that the notice was issued to the petitioner but no finding has been recorded by the respondent no. 3 that how the notice was served upon the petitioner. After coming to know about the order dated 18.01.2016, the petitioner filed a revision under Section 219 of the U.P. Revenue Act before respondent no. 2 along with an application for condonation of delay. The aforesaid revision has been dismissed on the ground of delay.

4. It has been further contended by the learned counsel for the petitioner that lease granted to the predecessor in interest of the petitioner was never cancelled and the orders impugned passed by the respondents are without jurisdiction as in proceedings under Section 33/39 of the U.P. Land Revenue Act the respondent authorities cannot adjudicate upon the title of the petitioner without any proceedings for cancellation of the lease granted to the predecessor in interest of the petitioner. Order has also been assailed on the ground that the order passed by the respondent was in violation of the principle justice and the averment in this regard has been made in paragraph no. 10 of the writ petition.

5. Matter requires consideration.

6. Respondent nos. 1, 2 & 3 are represented by learned Standing Counsel.

7. Sri Avinash Chandra Srivastava, learned counsel appearing for respondent no. 4/Gram Sabha.

8. Six weeks' time is granted to the respondents to file counter affidavit and two weeks thereafter to the petitioner to file rejoinder affidavit.

9. List thereafter.

10. Till the next date of listing, the operation and effect of the order dated 18.01.2016 passed by respondent no. 3 in Case No. T201601490523 shall remain stayed and the parties are directed to maintain status quo.

Order Date :- 21.9.2023

Ved Prakash

(Manish Kumar Nigam, J.)